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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,452	11/11/2003	William Albert Charette	600.1233	6695

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EXAMINER

EVANISKO, LESLIE J

ART UNIT PAPER NUMBER

2854

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/705,452

Applicant(s)

CHARETTE ET AL.

Examiner

Leslie J. Evanisko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/11/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. It is noted that applicant desires priority under 35 U.S.C. 120 based upon a previously filed application and the first line of the specification has been amended to provide a specific reference to the earlier filed application. However, the status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6-7, and 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Snider (US 6,677,846). Snider teaches a "tucking device" comprising a tucker bar **10** having a tucking surface (the bottom surface of the device as shown, for example, in Figures 4-6) and at least one magnet **12** for creating a repulsive force (see column 4, lines 59-64), and an actuator **32, 34, 41, 42** connected to the tucker bar **10** for moving the tucker bar. See Figures 4-6 in particular. Note that although the device of Snider is not disclosed as being for use with printing plates, note that this language in the claims is merely reciting the functional intended use of the device. Since the device of Snider meets the structural limitations of the claim language, it can be considered to be capable of being used in a manner as recited and thereby meets the functional desired use limitations of the claim.

With respect to claims 2 and 12, note the tucking device of Snider shown in Figure 6 includes a first cylinder (i.e., wheel **42**) at one end of the tucker bar

**10** and a second cylinder (i.e., wheel **42**) at another end of the tucker bar **10**, and the at least one magnet **12** being located between the first cylinder **42** and second cylinder **42**.

With respect to claim 3, note the tucking device of Snider includes brackets **301** for supporting the first and second cylinders **42**, as shown in Figure 7 and described in column 5, lines 13-21.

With respect to claim 4, note the actuator of Snider includes handles **32** which are broadly capable of allowing an operator to hold and control the tucker bar **10**.

With respect to claims 6 and 7, note column 3, lines 3-5 and Figures 1, 3, and 6 which all show a plurality of bar magnets **12** used in the tucker bar **10**.

With respect to claim 11, again Snider teaches a tucking device as recited including a tucker bar **10** having a tucking surface (i.e., bottom surface of bar **10** as shown in Figures 4-6 in particular) capable of physically contacting a printing plate, an actuator **32, 34, 41, 42** connected to the tucker bar **10** for moving the tucker bar and creating a force of the tucker bar on an object, the tucker bar having at least one magnet **12** for creating a magnetic force so as to increase the force of the tucker bar acting on the object. Again, note that although the device of Snider is not disclosed as being for use with printing plates, note that this language in the claims is merely reciting the functional intended use of the device. Since the device of Snider meets the

structural limitations of the claim language, it can be considered to be capable of being used in a manner as recited and thereby meets the functional desired use limitations of the claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snider (US 6,677,846) in view of Chlad (US 4,323,329). Snider teaches a tucking device having all of the structure as recited with the exception of the magnet being electrically activated. Again, note Snider teaches the desire to arrange the magnetic poles so as to have attracting or repelling poles in close or distant proximity so as to create the desired magnetic field for any magnetic sweeping operation--see column 4, lines 59-64. Although Snider does not specifically teach the use of electromagnets, Chlad teaches the use of a lifting assembly **12** having an electrically activated magnet **64** is well known in the art. See column 4, lines 1-36 of Chlad in particular. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide an electromagnet arrangement as taught by Chlad in the device of Snider to allow

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for simple reversal of the polarity of the magnets to allow for the device to be easily switched between one that picks up objects to one that repels objects.


### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Los Reyes et al. (US 5,624,146) teaches a tucking device having obvious similarities to the claimed subject matter. Russo (US 4,974,512) teaches a tucking device for tucking printing plates into a gap of a plate cylinder having obvious similarities to the claimed subject matter.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on M-Th 7:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leslie J. Evanisko  
Primary Examiner  
Art Unit 2854

lje  
May 27, 2004